

UNITED STATES DISTRICT COURT  
THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

SUZANNE ABBOTT and  
THOMAS O'CONNOR,

Plaintiffs,

Case No.: 2:23-CV-10962-TGB-DRG

Honorable: Terrence G. Berg

Magistrate Judge: David R. Grand

-VS-

MARY RECHLIN, WILLIAM RECHLIN,  
TOWNSHIP OF ADDISON,  
OAKLAND COUNTY ROAD COMMISSION,  
WATER RESOURCES COMMISSION,  
ENVIRONMENT, GREAT LAKES, ENERGY'S  
OAKLAND COUNTY SHERIFF,  
ANDERSON, ECKSTEIN & WESTRICK,  
GORDIE WILSON PE, and  
LAWRENCE M. SURRATT,

Defendants.

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**SUZANNE ABBOTT AND THOMAS O'CONNOR**

Pro Se

66 Peninsula Dr.

Leonard, Michigan 48367

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**OAKLAND COUNTY CORPORATION COUNSEL**

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**DEFENDANT LAWRENCE M. SURRATT’S MOTION TO DISMISS**  
**FOR INSUFFICIENCY OF PROCESS**  
**PURSUANT TO Fed. R. Civ. P. 12(b)(5)**

**NOW COMES** Defendant Lawrence M. Surratt, by and through his attorneys, the Law Offices of Ronald M. Sangster PLLC, by Ronald M. Sangster, Jr., and for his Motion to Dismiss the Plaintiffs’ Complaint against him for insufficiency of process pursuant to Fed. R. Civ. P. 12(b)(5), states as follows:

1. Pursuant to E.D. Mich. LR 7.1(a)(2)(C), concurrence with this Motion has not been sought because of the emergent nature of the relief requested; Defendant is filing this Motion in lieu of an Answer, and must comply with the timing requirements set forth in Fed. R. Civ. P. 12(a)(1)(A)(i).

2. Plaintiffs filed this suit on or about April 24, 2023 naming Mr. Surratt as a Defendant along with his neighbors and numerous other governmental agencies.

3. On or about July 18, 2023, Plaintiff Thomas O’Connor himself personally served the Summons and Complaint upon Mr. Surratt’s sister, Ms. Marie Surratt, at the Surratt’s co-owned cottage at 83 Peninsula Dr., Leonard, MI 48367. (See **Exhibit 1 – Affidavit of Marie Surratt**).

4. Fed. R. Civ. P. 4(c)(2) provides that “Any person who is at least 18 years old **and not a party may serve a summons and complaint.**” (Emphasis Added).

5. Defendant Surratt has not waived defects in service of process.

**WHEREFORE**, Defendant Lawrence M. Surratt respectfully requests this Honorable Court enter a dismissal of the present action against him in his favor and against Plaintiffs, together with an award of costs and attorney fees by him so wrongfully sustained.

Respectfully submitted,

LAW OFFICES OF RONALD M. SANGSTER,  
PLLC

By: /s/ Ronald M. Sangster, Jr.  
Ronald M. Sangster, Jr. (P39253)  
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Dated: August 8, 2023

UNITED STATES DISTRICT COURT  
THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

SUZANNE ABBOTT and  
THOMAS O'CONNOR,

Plaintiffs,

Case No.: 2:23-CV-12566-TGB-DRG

Honorable: Terrence G. Berg

Magistrate Judge: David R. Grand

-VS-

MARY RECHLIN, WILLIAM RECHLIN,  
TOWNSHIP OF ADDISON,  
OAKLAND COUNTY ROAD COMMISSION,  
WATER RESOURCES COMMISSION,  
ENVIRONMENT, GREAT LAKES, ENERGY'S  
OAKLAND COUNTY SHERIFF,  
ANDERSON, ECKSTEIN & WESTRICK,  
GORDIE WILSON PE, and  
LAWRENCE M. SURRATT,

Defendants.

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**BRIEF IN SUPPORT OF DEFENDANT LAWRENCE M. SURRATT’S**  
**MOTION TO DISMISS FOR INSUFFICIENCY OF PROCESS**  
**PURSUANT TO Fed. R. Civ. P. 12(b)(5)**

Defendant Lawrence M. Surratt relies upon the Federal Rules of Civil Procedure, more specifically Fed. R. Civ. P. 12(b)(5) and Fed. R. Civ. P. 4(c)(2), in defense of his Motion to Dismiss.

Failure to properly serve a defendant deprives the court of personal jurisdiction. *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350 (1999). Thus, a court may dismiss an action where service is improper. *Light v. Wolf*, 816 F.2d 746 (D.C. Cir. 1987). The court in that case found that “[t]he party on whose behalf service is made has the burden of establishing its validity when challenged; to do so, he must demonstrate that the procedure employed satisfied the requirements of the relevant portions of Rule 4 and any other applicable provision of law.” *Id.* at 751. (Citing Wright & A. Miller § 1083, at 334.; *E.g., Rivera v. Nissan Manufacturing Co.*, 788 F.2d 819, n. 2 (1st Cir.1986); *Norlock v. City of Garland*, 768 F.2d 654 (5th Cir.1985); *Lamb v. Volkswagenwerk Aktiengesellschaft*, 104 F.R.D. 95 (S.D.Fla.1985).) The court in *Reading v. United States*, 506 F. Supp. 2d 13, 19 (D.D.C. 2007), citing *Light v. Wolf*, reasoned that “the absence of proper service deprives the court of personal jurisdiction over the defendants, dismissal is required not only *de rigueur* but *de jure*.”

In this case, Plaintiff Thomas O'Connor himself personally served a Summons and Complaint upon Defendant's sister, Marie, at the cottage that they both own along with some of their other siblings. (**Exhibit 1**). Notwithstanding any argument as to whether the location and person Plaintiff served was proper, Plaintiff clearly did not comply with Fed. R. Civ. P. 4(c)(2) by effectuating service himself.

**WHEREFORE**, because Plaintiff in violation of Fed. R. Civ. P. 4(c)(2) did not properly serve Defendant Lawrence M. Surratt, Defendant respectfully requests this Honorable Court enter a dismissal of the present action against him in his favor and against Plaintiffs, together with an award of costs and attorney fees by him so wrongfully sustained.

Respectfully submitted,

LAW OFFICES OF RONALD M. SANGSTER,  
PLLC

By: /s/ Ronald M. Sangster, Jr.  
Ronald M. Sangster, Jr. (P39253)  
Attorney for Lawrence M. Surratt  
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[msangster@sangster-law.com](mailto:msangster@sangster-law.com)

Dated: August 8, 2023

**CERTIFICATE OF SERVICE**

I hereby certify that on August 8, 2023, I electronically filed the foregoing document (Motion to Dismiss and Brief in Support) with the Clerk of the Court using the ECF System which will send notification of such filing to the attorney(s) of record and Party(s) of record, and I hereby certify that I have mailed by United States Postal Service the same to the following non-ECF participants: Plaintiff Suzanne Abbott at 66 Peninsula Dr., Leonard, MI 48367.

Respectfully submitted,

LAW OFFICES OF RONALD M. SANGSTER,  
PLLC

By: /s/ Ronald M. Sangster, Jr.  
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Dated: August 8, 2023

# EXHIBIT 1



UNITED STATES DISTRICT COURT  
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SOUTHERN DIVISION

SUZANNE ABBOTT and  
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Case No.: 2:23-CV-10962-TGB-  
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Honorable: Terrence G. Berg  
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-VS-

MARY RECHLIN, WILLIAM RECHLIN,  
TOWNSHIP OF ADDISON,  
OAKLAND COUNTY ROAD  
COMMISSION,  
WATER RESOURCES COMMISSION,  
ENVIRONMENT, GREAT LAKES,  
ENERGY'S  
OAKLAND COUNTY SHERIFF,  
ANDERSON, ECKSTEIN & WESTRICK,  
GORDIE WILSON PE, and  
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**AFFIDAVIT OF MARIE SURRATT**

STATE OF MICHIGAN     )  
  ) ss  
COUNTY OF OAKLAND     )

I, Marie Surratt, being first duly sworn, deposes and states that if called to testify, I could confidently testify to the following:

1. That I was personally served a Summons and Complaint naming my brother, Lawrence M. Surratt, as a Defendant in this lawsuit.
2. That such service was made at my cottage co-owned with Mr. Surratt at

83 Peninsula Drive, Leonard, MI 48367.

3. That such service occurred on or about July 16, 2023.
4. That I am aware of the identity of Mr. Thomas O'Connor.
5. That Mr. O'Connor himself personally served the aforementioned Summons and Complaint upon me.

**FURTHER AFFIANT SAYETH NOT.**

Marie A Surratt  
Marie Surratt

Subscribed and sworn to before me this

7th day of August, 2023

Anita G. Blanco  
Notary Public,  
Macomb County, Michigan  
My commission expires: 11/05/2027

Anita G. Blanco  
NOTARY PUBLIC - STATE OF MICHIGAN  
County of Macomb  
My Commission Expires November 5, 2027  
Acting in the County of Oakland